

ORISSA ACT 28 OF 1993

***THE ORISSA PANCHAYATI RAJ FINANCE COMMISSION (MISCELLANEOUS PROVISIONS)
ACT, 1993**

[Received the assent of the Governor on the 18th December 1993, first published in an extraordinary issue of the *Orissa Gazette*, dated the 22nd December 1993].

AN ACT TO PROVIDE FOR THE COMPOSITION OF THE FINANCE COMMISSION, THE QUALIFICATIONS REQUISITE FOR APPOINTMENT AS MEMBERS THEREOF AND THE MANNER IN WHICH THEY SHALL BE SELECTED AND TO PRESCRIBE THEIR POWERS.

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Panchayati Raj Finance Commission (Miscellaneous Provisions) Act, 1993.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires.—

(a) "Commission" means the Finance Commission constituted by the Governor pursuant to clause (1) of Article 243-I of the Constitution;

(b) "Grama Panchayat" means a Grama Panchayat constituted under the Orissa Act, 1 of 1995;

(c) "Member" means a member of the Commission and includes the Chairman thereof;

(d) "Panchayati Raj institution" means a Grama Panchayat or a Samiti or a Parishad;

(e) "Parishad" means a Zilla Parishad constituted under the Orissa Zilla Parishad Act, 1991;

(f) "Prescribed" means prescribed by rules;

(g) "Rules" means rules made under this Act;

(h) "Samiti" means a Panchayat Samiti constituted under the Orissa Panchayati Samiti Act, 1959.

CHAPTER II

COMPOSITION AND POWERS OF COMMISSION INCLUDING REQUISITE
QUALIFICATIONS AND MANNER OF SELECTION OF MEMBERS

Constitution
of the Com-
mission.

3. The Commission shall consist of a Chairman and four other members:

Provided that the Governor may increase the number of such other members, if he considers it so expedient in the interest of the Panchyati Raj institutions.

Qualification
for appoint-
ment and
manner of
selection of
members.

4. Unless otherwise determined by the Governor as and when circumstances may so require:—

(i) the Chairman of the Commission shall be a person having experience in public affairs, who shall be selected, except where it is impracticable in any situation, from among the members of the Council of Ministers of the State; and

* For the Bill, See *Orissa Gazette*, extraordinary, dated the 3rd January, 1993 (No. 1443)

(ii) the other members shall be selected from among the persons who are—

- (a) members of the Legislative Assembly of the State ; or
- (b) members of any All India Service or of State Civil Service ; or
- (c) experts in the field of economics or social-sciences.

Secretary to the Commission.

5. The Secretary to the Government of Orissa in the Panchayati Raj Department shall be the Secretary to the Commission and shall convene the meetings of the Commission in consultation with the Chairman thereof.

Personal interest to disqualify or being a member.

6. Before appointing a person to be a member, the Governor—

- (i) shall satisfy himself that such person will have no such financial or other interest as is likely to affect prejudicially his functions as such member ; and
- (ii) shall also satisfy himself from time to time with respect to every member that he does not have any interest as mentioned in clause (i),

and any person who is, or whom the Governor proposes to appoint to be, a member shall, whenever required by the Governor so to do, furnish to him such information as the Governor considers necessary for the performance by him of his duties as a member.

Disqualification for being a member.

7. A person shall be disqualified for being appointed or for continuing as a member, if he—

- (a) is of unsound mind;
- (b) is an undischarged insolvent;
- (c) has been convicted of an offence involving moral turpitude: or
- (d) has such financial or other interest as is likely to affect prejudicially his functions as a member.

Term of Office etc. member

8. (1) Every member shall hold office for a period of five years commencing on the date on which the order of the Governor constituting the Commission is published in the Gazette and shall be eligible for reappointment.

(2) Notwithstanding anything in sub-section (1) a member may, by writing under his hand addressed to the Governor, resign from the office at any time.

(3) The Governor shall remove a person from the office of member, if that person—

- (a) refuses to act or becomes incapable of acting; or
- (b) is, without obtaining leave of absence from the Chairman, absent from three consecutive meetings of the Commission; or
- (c) has, in the opinion of the Governor, so abused the position of Chairman or member as to render that person's continuance in office detrimental to the interests of the Panchayati Raj institutions; or
- (d) has ceased to have the eligibility qualification as provided in Section 4; or

(e) becomes subject to any of the disqualifications specified in Section 7:

Provided that no person shall be removed under clause (c) until that person has been given an opportunity of being heard in the matter.

Powers of the Commission. 9. (1) The Commission shall, in the performance of their functions, have all the powers of a Civil Court while trying a suit, in respect of the following matters, namely:—

- (a) requiring the production of any document, information or data from the Panchayati Raj institutions;
- (b) summoning and enforcing the attendance of any authority or official connected with the affairs of the Panchayati Raj institutions and requiring them to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under consideration of the Commission or connected with the affairs of the Panchayati Raj institutions.

(2) In the performance of their functions, the Commission shall also have the powers to—

- (a) enter into the premises of any Panchayati Raj institution to inspect its functioning; and
- (b) review the day-to-day income and expenditure of any such institution and to examine—
 - (i) the pattern of assistance required from the Government for such institutions;
 - (ii) the principles which shall govern the grant-in-aid from the Government to such institutions;
 - (iii) the measures directed towards maintaining a sound financial position of such institutions including the power to impose taxes and fees;
 - (iv) such other matters as they may consider appropriate for the purpose of laying a sound financial base for such institutions to enable them to discharge their powers and functions effectively.

CHAPTER III

MISCELLANEOUS

Filling up casual vacancies. 10. Any casual vacancy in the office of the Chairman or of a member due to death, resignation, removal or otherwise shall be filled up by the Governor by fresh appointment in accordance with this Act of a person thereto, who shall hold office for the unexpired period of the term of the Chairman or the member in whose place he is so appointed.

Conditions of service and salaries and allowances of members. 11. (1) The office of the Chairman and of every other member shall be honorary: Provided that the Chairman and the other members may be paid such honorarium as the State Government may, by rules, determine from time to time.

(2) The Chairman and the other members shall be paid travelling allowance at such rate as the State Government may, by rules, determine from time to time.

Officers and other employees of the Commission. 12. (1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees appointed for the purpose of the Commission shall be such as may be prescribed.

Procedure to be regulated by the Commission. 13. (1) The Commission shall meet as and when necessary at such time and place as the Chairman may decide.

(2) The Secretary to the Commission shall intimate the members the date time and place of every meeting of the Commission.

(3) The Commission shall regulate its own procedure.

Vacancies, etc. not to invalidate proceedings of the Commission. 14. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Power to make rules. 15. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely:—

(a) the honorarium that may be paid under the proviso to sub-section (1) of Section II to the Chairman and the other members ;

(b) the rate at which travelling allowance shall be paid to the Chairman and other members under sub-section (2) of Section 11 :

(c) the salaries and allowances payable to, and other terms and conditions of service of, the officers and employees appointed for the purpose of the Commission under sub-section (2) of Section 12 :

(d) the manner of intimating the date, time and place of meetings of the Commission to the members under sub-section (2) of Section 13:

(e) any other matter which is required to be, or may be, prescribed.

Power to remove difficulties. 16. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Gazettee, make provision not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, or removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.